

ST 07-0082-GIL 07/03/2007 USE TAX

For a listing of possible exemptions from Use Tax for incoming out-of-State motor vehicles, see the instructions for form RUT-25, "Use Tax Transaction Return" available on the Department's web site. (This is a GIL.)

July 3, 2007

Dear Mr. Xxxxx:

This letter is in response to your letter dated November 7, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

Your assistance in providing a general information letter related to the transaction and issues noted below would be appreciated.

Transaction Background

Taxpayer, a corporation domiciled outside of Illinois, is in the business of renting to non-governmental customers on a short-term basis sewer cleaning trucks, vacuum loaders, and other specialty vactors, which are essentially trucks with mounted specialty equipment. The Taxpayer purchases and takes possession of the vactors outside of Illinois. Additionally, the vactors are licensed with Taxpayer's domicile state for use on public roads. Some of the Taxpayer's vactor fleet is rented to customers for use in Illinois.

Under the laws and regulations of Taxpayer's domicile state, Taxpayer does not pay sales tax to the domicile state on the purchase of the vactors. Instead, Taxpayer is

required to remit use tax to the domicile state on the rental receipts to the extent the motor vehicle is rented for use in the domicile state.

Illinois provides an exemption from use tax for tangible personal property acquired outside of Illinois and caused to be brought into Illinois by a person who has already paid a tax in another state in respect to the sale, purchase, or use of that property, to the extent of the tax properly due and paid in the other state (35 ILCS 105/3-55(d); 86 Ill. Adm. Code 150.310(a)(3)).

Questions

If Taxpayer immediately after purchasing, taking possession, and licensing a motor vehicle with the domicile state such that the proper amount of sales and use tax due to the domicile state is zero (e.g., no rental receipts for rental use in the domicile state), would the Illinois multistate exemption noted above apply?

If not, is there another exemption that may apply?

If the multistate exemption or another exemption does not apply, what is the tax base subject to Illinois use tax? Specifically, would the motor vehicle purchase price or any portion of the rental receipts be subject to Illinois use tax upon use (i.e., rental) in Illinois?

If the motor vehicle was rented for use in the domicile state such that the respective rental receipts were subject to use tax in the domicile state, would the use tax paid to the other state be applied against the Illinois use tax, if any, for subsequent rental use in Illinois? If applicable, what is the tax base subject to Illinois use tax?

DEPARTMENT'S RESPONSE

In short, the Department allows a credit for taxes properly due and paid in another state. Section 3 of the Illinois Use Tax Act (35 ILCS 105/3) imposes a tax upon the privilege of using tangible personal property in Illinois purchased at retail from retailers. However, the Illinois Use Tax Act also provides that in order to prevent actual or likely multistate taxation, the Use Tax does not apply to the use of tangible personal property in this State of tangible personal property that is acquired outside this State and caused to be brought into this State by a person who has already paid a tax in another State in respect to the sale, purchase, or use of that property, to the extent of the amount of the tax properly due and paid in the other State, 35 ILCS 105/3-55(d). See subsection (a)(3) of the enclosed copy of 86 Ill. Adm. Code 150.310.

We cannot provide you with a specific answer in the context of a General Information Letter whether Illinois will provide a credit for taxpayer's domicile state's tax against any Illinois Use Tax incurred on the use of that same property in Illinois. However, generally, if another state's tax is a tax on the sale, purchase, or use of tangible personal property, then the amount of that tax that was properly due and paid to that state may be credited against any Illinois Use Tax liability incurred on that same tangible personal property. If no tax was properly due and paid in the other state, then there would be no tax to credit against Illinois' tax.

The State sales tax rate is 6.25%. If the tangible personal property was purchased outside of this State and used outside of this State prior to being brought into this State for use, the selling price upon which the Illinois Use Tax is computed is reduced by an amount representing a reasonable allowance for depreciation for the period of such out-of-State use. See 86 Ill. Adm. Code 150.105.

For a listing of possible exemptions from Use Tax for incoming out-of-State motor vehicles, you might want to review the instructions for form RUT-25, "Use Tax Transaction Return" available on the Department's web site.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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